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LETTER OF ACCEPTANCE

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Dear Author (S):

Robert Hoffman , Budiman Ginting , Kamarullah , Mirza Nasution , Greetings!

We are delighted to inform you that our scientific and review committee approved your article titled "THE SUB-DISTRICT GOVERNMENT IS TAKING CARE OF THE STATE BORDER AREA IN INDONESIA : A NEW BREAKTHROUGH BUT ITS AUTHORITY IS LIMITED SO THAT THE BORDER AREA HAS NOT BEEN ABLE TO DEVELOP " (**Article no: IJOR-024-3425**) for publication in Volume 5 (2024) of the International Journal of Religion (IJOR).

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Best Regards,

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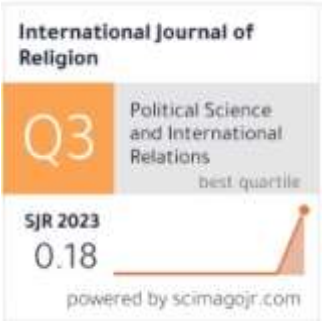

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The Sub-District Government Is Taking Care of The State Border Area in Indonesia: A New Breakthrough but Its Authority Is Limited So That the Border Area Has Not Been Able to Develop (Study in Ketungau Tengah and Hulu Districts, Sintang Regency, West Kalimantan Province, Republic of Indonesia)

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Abstract

The sub-district government which is located in the border area of Indonesia with other countries in the legislation takes care of the state border area. This is a new breakthrough that is very good for the development of sub-district areas located on the border of Indonesia. This study analyses the problem of the authority of the sub-district government in managing the state border area by taking place in the Districts of Ketungau Tengah and Hulu, Sintang Regency, West Kalimantan Province, Republic of Indonesia, which is analysed using normative research methods. From the results of the research, it is concluded that the sub-district government in the state border area has a strategic role in the development and community services as well as monitoring the security of the Indonesian territory. However, the sub-district government as a leader in the state border area has limited attribution and delegation authority so that the face of the region has not attracted world attention. Authority is part of the law so that to realise good law it is necessary to have clear and firm authority about what, who, where, when and how the authority is thought of and formulated in legislation.

Keywords: *Authority, Sub-District, State Border.*

INTRODUCTION

The management of state border areas in Indonesia is carried out based on the law. This is because Indonesia adheres to the *Civil Law System* which always prioritises the law. The law governing state border areas in Indonesia is Law of the Republic of Indonesia Number 43 of 2008 concerning State Territory which was passed by the President of the Republic of Indonesia on 14 November 2008.

The involvement of sub-districts as local government institutions in regencies/cities in managing border areas stems from the wording of Article 1 point 6 of the State Territory Law which states that : *"...border areas are located in sub-districts."* This is a new breakthrough that confirms that the sub-district at the border of the state territory becomes a place for the border area.

The word *"located"* in the paragraph can mean that the sub-district is a *"host"* for the border area and as a *"host,"* of course, the sub-district does not remain silent but is also involved in managing the state border area. The host for the state border area is the Camat, because the Camat is the leader of the sub-district, this is in accordance with the Law of the Republic of Indonesia Number 23 of 2014 concerning Regional Government, Article 1 number 24 which states that : *"sub-district is part of the district/city area led by a sub-district head."*

In the system of regional government administration in Indonesia, the sub-district is part of the regency/city whose position is as one of the regency/city regional apparatus organisations under and responsible to the Regent/Mayor through the Regional Secretary, which has the authority of attribution and delegation, so that the Camat as the sub-district leader can act as the *"Vice President," "Vice Governor,"* or *"Vice Regent/Mayor,"* in carrying out government affairs in the sub-district area.

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However, this is not the case in terms of border area management. The authority of the sub-district is actually obtained from the law *(attribution)* to carry out its own authority or obtained through delegation from the Regent/Mayor to the Camat *(delegation),* but in the case of border area management, the Camat by attribution through the Local Government Law receives an assignment from the Regent/Mayor to assist the Central Government through the Governor as the representative of the central government in the region in terms of coordinating the implementation of border area development, as stated in Article 361 paragraph (6) of the Local Government Law. In addition, by delegation through Government Regulations, the Camat also receives tasks from the President as the central government to assist supervision in the fields of immigration, customs and quarantine through the relevant ministries / non-ministerial government agencies assigned to the regent / mayor, and can be given certain authorities according to the assignment from the Central Government in stages in the management and utilisation of state border areas. The assistance tasks are listed in Article 12 paragraphs (1) and (2) of Government Regulation of the Republic of Indonesia Number 17 of 2018 concerning Sub-districts.

Thus, in terms of border area management, the position of the sub-district head is no longer as *"Vice President," "Vice Governor,"* or *"Vice Regent/Mayor,"* but only as *"Vice Central Government,"* including the President, Vice President, and presidential aides namely ministries and non-ministerial government agencies, so that the authority of the sub-district head is limited to carrying out tasks delegated by the central government or related ministries to the Regent/Mayor, namely coordinating the implementation of border area development, assisting supervision in the fields of immigration, customs and quarantine and other assignments. This means that in terms of border area management, the authority of the sub-district head is very narrow, even though the border area is actually located in the sub-district as part of the regency/city area led by the sub-district head.

The management of border areas in Indonesia that involves sub-districts as regional apparatus organisations in the structure of district/city governments in Indonesia is a new breakthrough that has been carried out by Indonesia since 2008 until now, although there are also institutions specifically formed to manage state border areas such as the National Border Management Agency (Badan Nasional Pengelola Perbatasan/BNPP) at the Central level and the Border Management Agency at the Regional level (Badan Pengelola Perbatasan Daerah/BPPD), However, this phenomenal new breakthrough is not supported by the granting of broad authority so that the sub-districts located in the state border areas, which currently reach 562 sub-districts, spread across 92 districts / cities and 15 provinces in Indonesia, have not changed significantly. Changes have only occurred recently in the construction of cross-border posts (Pos Lintas Batas Negara/PLBN) as *"official doors"* for the flow of traffic of people, animals and goods from or out of Indonesia. Meanwhile, the condition of sub-districts such as one of them, Ketungau Tengah and Hulu Sub-district as sub-districts located in the state border area between Indonesia and Malaysia located in Sintang Regency, West Kalimantan Province, the Republic of Indonesia, which in fact is a border area until now is still lacking, so that people in the state border area are still *"depending"* on their lives with neighbouring countries, whether in the fields of economy, health, education or other fields, plus the construction of roads connecting between villages and the main road connecting from the border area to the district / city capital has not been fully done. For this reason, this article is very interesting to the author to conduct this research.

RESEARCH METHODS

The research method used in this research is normative juridical research with a statutory approach. The analysis in this research is carried out qualitatively, namely from the data obtained then arranged systematically then analysed qualitatively to achieve clarity of the problems discussed.

RESEARCH RESULTS AND DISCUSSION

The Importance Of Border Areas For Indonesia

Many opinions from various literatures have revealed how important the border area of a country is, such as Lutfi Muta'ali who said that the border area is a certain area that has an important impact and has a strategic role for improving the welfare of the community and increasing defence, socio-economic welfare of the community inside or outside the region, which has a strong relationship with activities in other bordering areas, both within the national and inter-state scope and certainly has a political impact and impact on the national security defence function. Likewise, Deddy Koespramoedyo said that the border area essentially has a very vital and strategic meaning, at least when viewed from three points of view, namely : *First,* the importance from a defence-security point of view. As an area directly bordering other countries, the border area is an integral part of the territorial area of the Unitary State of the Republic of Indonesia whose sovereignty must be safeguarded and defended, especially with regard to state borders. In addition, border areas can also be an entry point for national security threats that are very vulnerable to infiltration by transnational crime networks such as: terrorism, human trafficking, drug trafficking, illegal logging, illegal arms trade, and others. Therefore, the concentration of border area security must continue to be alerted so that security stability is maintained. *Second,* the importance from an economic-trade perspective. The state border area is a strategic area because it is a growing point for the regional and national economy. Through this area, the country's trade activities can be carried out easily, quickly and cheaply, which in turn will encourage the increase in community production activities, community income and lead to community welfare. Seeing the opportunities and all the potential contained therein, in the future the state border area may become an area that can develop technology, tourism areas, agro-industrial areas, trade areas and various other forms of potential areas, all of which support the optimal utilization of resource potential. *Third,* the importance from a socio-cultural point of view. In some Indonesian border areas, there are communities that culturally have similar characteristics and traditions, perhaps because they come from the same family of ancestors, so it is not uncommon to find very close kinship relations between communities in land border areas, especially on the Indonesia-Malaysia border. However, at some other points, each of these border areas has a relatively different socio-cultural character from one another. However, the overall phenomenon is the same, namely the direct and intensive interaction between Indonesian citizens and citizens of neighbouring countries, in the form of traditional socio-cultural relationships and modern economic activities.

Likewise, the State Administration Institute of the Republic of Indonesia views that the border areas of a country have strategic value in supporting the success of national development. This can occur, among others, because border areas have an important impact on state sovereignty, have a driving factor for improving the socio-economic welfare of the surrounding community, have a mutually influencing relationship with activities carried out in other areas that border between regions and between countries, and have an impact on defence and security conditions both on a regional and national scale. Similarly, the House of Regional Representatives of the Republic of Indonesia (Dewan Perwakilan Daerah Republik Indonesia/DPD-RI) in collaboration with Universitas Tanjungpura said in its report that the territory of a country, especially the border area, will always be an interesting thing, because the territorial aspect of a country concerns the sovereignty and sovereign rights and jurisdiction of a country in real terms over its territory. Indeed, in modern developments such as today, border areas between countries have strategic potential for the development of mutually beneficial international trade activities. This area also has great potential to become a regional growth centre, especially in terms of industrial development, trade and tourism. This will provide opportunities for increased production activities which will in turn lead to various multiplier effects.

Due to the importance of the border area, Indonesia has made the border area a national strategic area, as confirmed in the Law of the Republic of Indonesia Number 26 of 2007 concerning Spatial Planning which has been partially amended by Law of the Republic of Indonesia Number 6 of 2023 concerning Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law, which in Article 1 number 28 states that : *"National Strategic Areas (Kawasan Strategis Nasional / KSN) are areas whose spatial planning is prioritised because they have a very important national influence on state sovereignty, national defence and security, economy, social, culture, and/or environment, including areas that have been designated as world heritage."* Likewise, the Government Regulation of the Republic of Indonesia Number 21 of 2021 concerning the Implementation of Spatial

Planning, which in Article 1 point 27 states that : *"National Strategic Areas, hereinafter abbreviated as KSN, are areas whose spatial planning is prioritised because they have a very important national influence on state sovereignty, national defence and security, economy, social, culture, and/or environment, including areas that have been designated as world heritage."* Thus, state border areas are made into Indonesia's national strategic areas because they are important to state sovereignty, defence and security, economy, social, culture, and/or environment.

The Importance Of State Border Area Management

There are a number of reasons for the importance of border area management, at least 5 (five) reasons, namely : 1) to strengthen national defence; 2) to control immigration, customs and quarantine; 3) to improve people's welfare; 4) to protect people's customs and culture as well as natural resources; and 5) to accelerate development in border areas. These five reasons are closely related to the current era of globalisation in order to anticipate the negative effects of globalisation such as free trade, climate change, trafficking, and terrorism. Even more extreme, the negative effect of globalisation is the uniformity movement, where the whole world will follow one system of rules, one language and culture or one law.

Strengthening State Defence

Jean Bodin's theory of sovereignty, which developed and gave birth to the *"Theory of State Sovereignty"* in the XV-XIX centuries, teaches that the state is the highest thing, which is the source of all power; so the state is the source of sovereignty in the state. This theory of state sovereignty has contributed to national and international law, as Satjipto Rahardjo says that *"state sovereignty becomes an important issue both in relation to domestic and international law."*. One of the other important elements in the formation of a state as stated in Article 1 of the 1933 Montevideo Convention is the existence of a territory or what is called *"a defined territory"*.The existence of territory cannot be separated from the state, because territory is the space where people become citizens of the state concerned, live and carry out all their activities. Oppenheim said that without the existence of a territory with certain boundaries, a state cannot be considered as a subject of international law. Strictly speaking, the existence of territory is absolute for the formation of a state, there will be no state without a territory where the population of a state resides. In addition, the territory of the state as one of the main elements of the state is also the place where the state exercises its jurisdiction over society, all property and all activities that occur within the territory. State sovereignty like this is also called territorial sovereignty. Such is the importance of the state's territory that it is necessary to strengthen state defence in the state border areas in order to uphold state sovereignty in order to ensure the integrity of the state's territory, both land and sea areas as well as all content within and on its surface. Strengthening state defence in the border areas of the Indonesian state obtained by the Uti Posidetis principle is also an effort to prevent actions that can threaten state sovereignty, one of which is the taking of territory, either by occupation, annexation, prescription, cessi, referendum or claim over certain areas. The dominance of the state in border governance is manifested in the hard border paradigm, where borders are managed by promoting security and sovereignty through military representation, as is the case with Indonesia through the Law of the Republic of Indonesia Number 3 of 2002 concerning State Defence, which in its explanation states that the state defence system places the Indonesian National Army (Tentara Nasional Indonesia / TNI) as the main component in facing military threats supported by reserve and supporting components and in facing non-military threats places government agencies outside the defence sector as the main element adapted to the form and nature of the threat supported by other elements of the nation's power.

Supervision of Immigration, Customs and Quarantine

Another important thing in border area management is for supervision in the fields of immigration, customs and quarantine. Internationally, this form of supervision is better known as "Clearance," namely: clearance in the field of immigration is the crossing of humans, namely their travel documents, clearance in the field of customs is the crossing of goods, while clearance in the field of quarantine is human, animal and plant health. The management of border areas in the context of supervision in the field of immigration is a strategic form of

overseeing the traffic of foreigners entering or leaving the Indonesian Territory as well as their presence and activities while in the Indonesian Territory in an effort to prevent and ward off early the occurrence of international crimes, such as smuggling and trafficking in persons, terrorism, illegal immigrants, narcotics smuggling, theft of natural resources, piracy, and environmental destruction that will harm the country. According to Kamarullah, border areas are most vulnerable as entry points for radical movement figures from neighbouring countries.

Meanwhile, supervision in the field of customs is a strategic form of overseeing the traffic of goods entering or leaving the territory of the Republic of Indonesia, especially in land areas directly bordering foreign countries, because this is related to state revenue for imported and exported goods. The state border is the country's gateway which has great potential for goods entering or leaving the country's territory. This great potential is in the form of the acquisition of import duties and export duties which are one of the largest contributors to state revenue.

State revenue is money that enters the state treasury. Import duties and export duties are tax revenue posts, especially those derived from the international trade tax sector. Petrus Atong said that taxes are very significant, because their role can support economic growth. Rochmat Soemitro said that taxes are a huge source of state revenue for state finances in addition to petroleum and natural gas, where at one time oil and natural gas will run out, because the source is a non-renewable resource, so the only source that can be developed is tax sources. If the control of these goods is loose, it will clearly harm the state from the duties received by the state. Conversely, if supervision is tight, it will not only increase the state's revenue from import and export duties, but it will also prevent early entry of narcotics or other dangerous goods into the country's territory, all of which will harm the country and its people and threaten state sovereignty.

Likewise, supervision in the field of quarantine is a strategic form to monitor the health of humans, animals and plants from traffic in or out of the country's territory. Supervision in the field of quarantine is to ward off and prevent early spread of disease into the territory of the country from dangerous viruses attached to humans, animals, or plants that can threaten the population of a country and will even harm the country if the viruses bring the death of citizens who make reduced human resources and the extinction of animals and plants as state assets. For Indonesia, in an effort to supervise in the field of immigration, customs and quarantine, a number of Pos Lintas Batas Negara (PLBN) buildings have been built in the border areas of the country which function as gates for the entry and exit of border crossers, both humans, animals, plants and goods, which are equipped with service facilities such as Customs, Immigration, Quarantine, and Security or abbreviated as CIQS. The PLBN is built based on agreements between bordering countries, such as the *"Border Crossing Agreement"* agreement or abbreviated as BCA to determine the border point of the PLBN construction and the Border Trade Agreement (BTA) agreement in handling cross-border trade activities in the state border area.

Until now, the State Border Crossing Posts (PLBN) that have been built based on the Presidential Instruction of the Republic of Indonesia Number 6 of 2015 include 7 (seven) PLBNs, namely : 1). PLBN Aruk, Sambas Regency, 2). Entikong PLBN, Sanggau Regency, 3). PLBN Nanga Badau, Kapuas Hulu Regency, 4). PLBN Motaain, Belu Regency, 5). PLBN Motamasin, Malaka Regency, 6). PLBN Wini, North Central Timor Regency, and 7). PLBN Skouw, Jayapura City. Meanwhile, the PLBNs that are currently being built based on the Presidential Instruction of the Republic of Indonesia Number 1 of 2019 include 11 (eleven) PLBNs, namely : 1). PLBN Serasan, Natuna Regency, 2). PLBN Jagoi Babang, Bengkayang Regency, 3). PLBN Sei Kelik, Sintang Regency, 4). PLBN Sei Nyamuk, Nunukan Regency, 5). PLBN Labang, Nunukan Regency, 6). PLBN Long Midang, Nunukan Regency, 7). PLBN Long Nawang, Malinau Regency, 8). PLBN Oepoli, Kupang Regency, 9). PLBN Napan, North Central Timor Regency, 10). PLBN Sota, Merauke Regency, and 11). PLBN Yetetkun, Boven Regency.

Improving Community Welfare

Welfare is one of the approaches taken in border area management, in addition to security and environmental sustainability. The welfare approach means that efforts to manage border areas should provide maximum benefits for improving the welfare of people living in border areas. This welfare improvement can be done by bringing in investors to participate in investing in border areas. According to Fadhel Arjuna Adinda, et al in his writing said that Indonesia as a large country has enormous potential both in the field of human resources and natural resources contained therein, which is a great potential to bring in investors to participate in investing their capital, investing in any field. However, there are several factors that hinder the pace of investment in this country. Budiman Ginting said that the factor that hinders it is because there is still a long bureaucracy, and overlapping regulations in our government. A long bureaucracy can usually create conditions or situations that are less conducive for capital owners so that it can reduce the intention of investors in launching their funds, because a long bureaucracy means there are extra costs that must be incurred by potential investors, and this is certainly burdensome.

In addition to investment, border area management can also be done by managing cross-border trade between countries. With the understanding that cross-border trade is "the flow of goods and services across international land borders within a reach of up to thirty kilometres," border communities have actually been practising cross-border trade. However, because it is not managed properly, cross-border trade takes place informally. To overcome such unfavourable conditions, one of the ways that can be done by districts/cities located at the border is to utilise their economic potential through legal trade patterns. In recent years there has been an awareness among countries in the world about the importance of cross-border trade to achieve sustainable economic growth. All countries certainly agree that trade facilitation will benefit all parties, such as Malaysia which has developed its growth centres and border corridors through various economic and trade activities that benefit both the government and its people. Border areas require economic activities that can spur development in the region. Seeing the economic potential at the border, the existence of an inter-population trade zone in the border area can move border residents from two countries to carry out economic and trade activities as well as the usual interactions carried out by residents in traditional markets.

Thus, the existence of inter-population trade zones can be a driving force for the economic development of districts/cities located in border areas, such as building economic networks at the border, as the community in Aji Kuning Village, Sebatik Subdistrict, Nunukan Regency, East Kalimantan Province bordering Tawau, Sabah-Malaysia built an economic network integrated with the Tawau, Sabah-Malaysia market as a form of social solidarity for the sake of controlling economic resources for their welfare. The existence of an inter-population trade zone requires the participation of people in the border area who are scattered in villages bordering the neighbouring country. They have various potentials that can be developed in cross-border trade. Therefore, the way that can be taken is by empowering the community, namely by providing motivation or support in the form of resources, opportunities, knowledge, and skills for the community to increase their capacity, increase awareness of their potential, then strive to develop their potential. Thus, the importance of border area management is to improve the welfare of the community.

Protection of Community Culture

God Almighty has bestowed the Indonesian nation with wealth in the diversity of ethnic groups, customs, languages, local knowledge and technology, traditions, local wisdom, and art. This diversity is the nation's cultural heritage of noble value that forms the nation's identity in the midst of the dynamics of world development. In addition, Pancasila as the foundation of the state is an ideology that is explored and raised from the values of customs, cultural values contained in the lives of Indonesian people before forming the state. Culturally, the rationale and values of Pancasila are rooted in the cultural values and values of unity of the Indonesian people. The cultural values of the Indonesian nation to this day remain alive in Indonesian society, and are always maintained indefinitely as ancestral heritage for each generation. These cultural values are the responsibility of the state to promote, respect and maintain regional languages as national cultural wealth, as mandated in Article 32 paragraphs (1) and (2) of the 1945 Constitution of the Republic of Indonesia (UUD 1945), that : (1) The state promotes Indonesian national culture in the midst of world civilisation by

guaranteeing the freedom of the community to maintain and develop its cultural values and; (2) The state respects and maintains regional languages as national cultural wealth.

The mandate of Article 32 of the 1945 Constitution was then followed up by establishing Law of the Republic of Indonesia Number 5 of 2017 concerning the Promotion of Culture, or in this paper abbreviated as Law No. 5/2017 concerning the Promotion of Culture. The significance of Law No. 5/2017 on the Promotion of Culture is to promote Indonesian national culture through protection, development, utilisation, and guidance as a strategic step in facing various problems, challenges, and opportunities in order to realise an Indonesian society that is politically sovereign, economically independent, and has a personality in culture, as the *"Trisakti"* principle conveyed by Ir. Soekarno as the founder of the Unitary State of the Republic of Indonesia in a speech on 17 August 1964. The purpose of cultural promotion is to: develop the noble values of the nation's culture; enrich cultural diversity; strengthen the nation's identity; strengthen national unity; educate the nation's life; improve the nation's image; create a civil society; improve people's welfare; preserve the nation's cultural heritage; and influence the direction of development of world civilisation, so that culture becomes the direction of national development. Meanwhile, the objects of cultural promotion include: oral tradition; manuscripts; customs; rites; traditional knowledge; traditional technology; art; language; folk games; and traditional sports. Normatively, Law No. 5/2017 on the Promotion of Culture assigns tasks to the government, provincial governments and district / city governments to protect, develop, utilise and foster all objects of national cultural promotion of the Indonesian nation. One of the protection tasks is to secure the object of cultural promotion to prevent foreign parties from claiming the intellectual property of the object of cultural promotion.

In relation to this, geographically, state border areas are very vulnerable to claims from other neighbouring countries for national cultural wealth, because in state border areas, especially those that border directly on the land, there are generally cultural similarities between the indigenous population. Muazzin said that generally the so-called indigenous people of a country are those or population groups that are very traditional and far from the touch of technology and progress; population groups that are very far behind compared to other population groups, even though they generally have an environment with very potential natural resources. Thus, it is very important that the entire ancestral heritage of the Indonesian people attached to the indigenous people of Indonesia in the border areas of the country which includes customs, language or so on to be protected by the government, provincial governments and district / city governments.

Management and Utilisation of Natural Resources

Natural resources spread throughout Indonesia are a gift from God Almighty to be managed and utilised to the greatest extent for the prosperity of the Indonesian people. Indonesia's natural resources are scattered in several areas of Indonesia's sea and land borders, including: a). Minerals and Coal in the Riau Islands and East Kalimantan; b). Lead, Bauxite and Coal in West Kalimantan; c). Mangaan in East Nusa Tenggara; d). Gold and Nickel in Papua; and e). Oil and Gas in Aceh, Natuna, Kalimantan and Papua.

State border areas, especially on land, are generally occupied by traditional communities that still uphold local customs and culture. However, it seems that they have never been involved in the management of natural resources, and they have never even enjoyed the results of such management. Exploitation of the environment and natural resources has not improved their welfare in the slightest. Instead, it only benefits a few other groups of the population. Not to mention the benefits that are not achieved by the indigenous population. Therefore, it is the indigenous people who are most likely to suffer losses in the future due to the impact of these activities. Based on this, the protection of indigenous peoples' rights to natural resources is growing. Various other international legal instruments, both in the form of hard law, and soft law, clearly regulate the protection of indigenous peoples in the management of natural resources, such as : Convention Concerning Indigenous and Tribal Peoples in Independent Countries or commonly known as ILO Convention 169, which contains several important articles that specifically regulate land issues, such as Article 14, which states that : *"The rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy shall be recognised. In addition, measures shall be taken in appropriate cases to safeguard the right of the peoples concerned to use lands not exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities."*

In other words, the provisions of Article 14 force the state to recognise indigenous peoples' tenure and ownership rights. If not recognised, the state will violate the rights of these indigenous peoples. In addition, ILO Convention 169 contains important provisions regarding the control of indigenous peoples over natural resources, as stated in Article 15 paragraph (1) as follows : *"The rights of the people concerned to the natural resources pertaining to their lands shall be specially safeguarded. These rights include the right of these peoples to participate in the use, management and conservation of these resources."*

Indigenous peoples are entitled to the preservation of natural resources, including the right to participate in the management, utilisation and conservation of these resources. Thus, the realisation of the implementation of the rights of indigenous peoples is an obligation of the state or government. ILO Convention 169 is the first international legal instrument to recognise the collective rights of indigenous peoples. In addition to ILO Convention 169, indigenous peoples' rights to land and natural resources have also been accepted in other international instruments, namely the Earth Summit in Rio de Janeiro: The Earth Summit in Rio de Janeiro in 1992 produced the Rio Declaration on Environment and Development (1992 Rio Declaration). Under Principle 22 of this declaration, it is stated that indigenous peoples have an important role in environmental management and development because of their traditional knowledge and practices. Therefore, states must recognise and fully support their entities, cultures and interests and provide opportunities for active participation in achieving sustainable development. Chapter 26 of Agenda 21 affirms the protection of the customary rights of indigenous peoples, as follows : *"Indigenous people and their communities have a historical relationship with their lands and are generally descendants of the original inhabitants of such lands. In the context of this chapter the term "lands" is understood to include the environment of the areas which the people concerned traditionally occupy."*

The 1992 Rio Declaration basically affirms that every state or government is obliged to respect the traditions, knowledge, and role of indigenous peoples in environmental management and development as well as the maintenance of their identity, culture, and interests. In addition, there are other international instruments, namely : The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) was adopted by the United Nations General Assembly through a majority vote (144 countries voted in favour, 4 countries voted against, 11 countries abstained, and 30 countries were absent), to adopt the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) on 13 September 2007. The plight of indigenous peoples around the world has become a concern for the international community, especially after the UN General Assembly adopted UNDRIP. The increasing international attention to the oppression, subjugation and marginalisation of indigenous peoples has led to positive and aggressive efforts to encourage international recognition of their rights. For indigenous peoples, the endorsement of the UN Declaration on the rights of indigenous peoples is a historic milestone, after a long struggle to gain international recognition of their rights that began more than 23 years ago at the UN.

For the Unitary State of the Republic of Indonesia, recognition of indigenous peoples and customary rights has been stated in the 1945 Constitution as a result of the second amendment through Article 18 B paragraphs (1) and (2) which states that: (1) The State recognises and respects units of regional government that are special or special in nature as regulated by law; and (2) The State recognises and respects the units of customary law communities and their traditional rights as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia, which are regulated by law.

This article gives indigenous peoples a constitutional position in relation to the state and provides a constitutional basis for state officials on how indigenous peoples should be treated. The article is a statement of the state's constitutional obligation to recognise and respect indigenous peoples, as well as the constitutional right of indigenous peoples to obtain recognition and respect for their traditional rights. What is contained in Article 18 B paragraph (2) is also a constitutional mandate that must be adhered to by state administrators, to regulate the recognition and respect for the existence of indigenous peoples in a form of law. Thus, it is very important that the management and utilisation of natural resources include local communities as people who have customs and culture or as indigenous people, because Muhammad Yamin Lubis said that indigenous people are the first owners, and this has never been lost from the feelings of the community. Thus, the

importance of border area management is for the management and utilisation of natural resources scattered throughout the country's border areas.

Acceleration of Development in Border Areas

The government's obligation to implement development, especially in border areas where local communities live, has become a provision of international law, such as United Nations (UN) General Assembly Resolution No. 41/128 on the Declaration on the Right to Development. Article 1 paragraph (1) point 2 of the declaration states that: The right to development is an inalienable right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural, and political development, in which all human rights and fundamental freedoms can be fully realised." Article 2(1) of the declaration states that : *"The human person is the central subject of development and should be the active participant and beneficiary of the right to development."* Likewise, Article 2 paragraph (3) states that : *"States have the right and duty to formulate the appropriate national development policies that aim at the constant improvement of the well-being of the entire population and of all individuals, on the basis of their active, free, and meaningful participation in development, and in the fair distribution of the benefits resulting therefrom."*

Thus, the above provisions indicate that the state is obliged to fulfil the development needs of the people in all fields, both as individuals and groups. In addition, the state is obliged to include the people in the development process, and fairly distribute the results of development to all people, including the indigenous population. Until now, the condition of Indonesia's border areas is still alarming, where people living in border areas are still far behind other people living in non-border areas. For this reason, the Grand Design of the Management of State Boundaries and Border Areas in 2011-2025 has scheduled to provide facilities and infrastructure (infrastructure) to support the needs of the border as the country's front porch for economic and investment activities such as the availability of electricity network systems, water, telecommunications, transportation, ports, markets, and so on. In addition, the need for the development of quality social facilities and infrastructure, such as schools and health centres. Likewise, the development of adequate government facilities and infrastructure at the border is needed to ensure the effectiveness of government administration services, including the construction of support facilities units to support cross-border posts (Pos Lintas Batas/PLB) and their CIQS facilities (Customs, Immigration, Quarantine, and Security).

Development in state border areas is currently the responsibility of the central government, where normatively, the central government is obliged to develop border areas so as not to be left behind by the progress of border areas in neighbouring countries by ordering the Governor as the Central Government Representative to coordinate the implementation of border area development assisted by regents/mayors, where regents/mayors assign sub-district heads in border areas. Thus, based on this regulation, the importance of border area management is to accelerate the implementation of development in border areas.

The Authority Of Sub-Districts In Indonesia In Managing State Border Areas Is Not Clear And Firm And Is Still Limited

Currently, the State of Indonesia has 7,266 sub-district areas and when viewed from its geography, from that number it can be classified into 2 sub-district areas, namely sub-districts that are not in the state border area or abbreviated as Non-Border Sub-districts which number 6,704 sub-districts and sub-districts located in the state border area or abbreviated as Border Area Sub-districts totalling 562 sub-districts spread across 92 districts / cities and 15 provinces. West Kalimantan Province is one of the provinces in Indonesia that has 14 sub-districts located in state border areas spread across 5 districts. Of the 14 sub-districts, among them are Ketungau Tengah and Hulu sub-districts in Sintang Regency, which are two sub-districts directly bordering Malaysia.

The authority of sub-districts in Indonesia in managing state border areas is obtained from attribution and delegation as stated in the Regional Government Law No. 23 of 2014 and Government Regulation No. 17 of 2018 concerning Sub-districts. However, the authority until now has not been clear and firm and the scope of authority is still limited. The unclear and unequivocal regulation of the authority is evidenced by the absence of implementing regulations or technical guidelines in implementing all work norms related to the management of state border areas. In addition, the authority listed in these regulations is still limited, only to supervision in

the fields of immigration, customs and quarantine. The authority is not free, even though the sub-district head in the state border area is a leader who must know about what and how to do for the development of his area.

The authority of sub-districts in state border areas is still being exercised to implement the same regulations as non-border sub-districts. The authority is carried out by carrying out legal actions, namely : 1). Planning is carried out by preparing plans such as the Regional Work Unit Medium-Term Development Plan and the Regional Work Unit Annual Development Plan, by referring to the Regional Long-Term Development Plan, the Regional Medium-Term Development Plan and the Regional Government Work Plan which is the annual regional development plan. The Regional Government Work Plan then becomes a guideline for the preparation of the Draft Regional Budget; 3). Norm Jabaran or Pernormaan Jabaran which is carried out by issuing Circular Letters or Instruction Letters which are distributed to the wider community, such as the Circular Letter regarding the rules for wearing masks that was issued during the Covid-19 period in 2019. Although the three legal acts have been carried out by the Camat in implementing their authority, there are still more legal acts that have not been implemented, namely legal acts in the form of *Discretion* or *Freis Ermessen*. This legal action has not been carried out because according to the Head of Sub-District there is no clear and firm technical guidance in the use of discretion even though discretion has been regulated in Law No. 30 of 2014 concerning Government Administration.

CONCLUSION

The sub-district government in the state border region has a strategic role in the development and community services as well as monitoring the security of Indonesian territory. However, the sub-district government as a leader in the state border area has limited attribution and delegation authority so that the face of the region has not attracted world attention. Authority is part of the law so that to realise good law it is necessary to have clear and firm authority about what, who, where, when and how the authority is thought of and formulated in legislation.

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